

LAW OFFICES
WULFSBERG REESE COLVIG & FIRSTMAN
PROFESSIONAL CORPORATION
KAISER CENTER
300 LAKESIDE DRIVE, 24TH FLOOR
OAKLAND, CALIFORNIA 94612-3524
TELEPHONE (510) 835-9100

WULFSBERG REESE COLVIG & FIRSTMAN
PROFESSIONAL CORPORATION

Eric J. Firstman – 111534
Gregory R. Aker – 104171
Michael J. Higgins – 151549
Richard E. Elder – 205389
J. Todd Wulfsberg – 258750
300 Lakeside Drive, 24th Floor
Oakland, CA 94612-3524
Telephone: (510) 835-9100
Facsimile: (510) 451-2170
e-mail: gaker@wulfslaw.com

Attorneys for Counterclaim Defendants
CITY OF ALAMEDA, and its
Department, ALAMEDA POWER & TELECOM

OFFICE OF THE CITY ATTORNEY
CITY OF ALAMEDA
Donna R. Mooney – 189753
2263 Santa Clara Avenue, Room 280
Alameda, California 94501
Telephone: (510) 747-4750
Facsimile: (510) 747-4767
Email: dmooney@ci.alameda.ca.us

Attorneys for Counterclaim Defendants
ALAMEDA PUBLIC FINANCING AUTHORITY, and
ALAMEDA PUBLIC IMPROVEMENT CORPORATION

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE NUVEEN FUNDS/CITY OF
ALAMEDA SECURITIES LITIGATION

BERNARD OSHER TRUST DTD 3/8/88,
BERNARD A. OSHER, TRUSTEE,

Plaintiff,

vs.

CITY OF ALAMEDA, on behalf of itself and
ALAMEDA POWER & TELECOM, a
department of the City of Alameda;
ALAMEDA PUBLIC FINANCING
AUTHORITY; ALAMEDA PUBLIC
IMPROVEMENT CORPORATION; and
STONE & YOUNGBERG, LLC, a California
Limited Liability Company,

Defendant.

Case No. C 08-04575 SI

**~~PROPOSED~~ ORDER RE ENTRY OF
JUDGMENT AND CCP §1038 MOTIONS**

DATE: May 18, 2011
TIME: 2:30 p.m.
COURTROOM: 10

THE HONORABLE SUSAN ILLSTON

1 On May 17, 2011, following the Court's ruling on defendants' summary judgment motions
2 in the Nuveen and Osher cases, defendant City of Alameda (Alameda) filed in each of these cases
3 a motion for defense costs under CCP §1038 and requested that the motions be set for hearing.
4 The Court desires to consider such motions at the conclusion of the Nuveen and Osher cases, after
5 the adjudication of the claims of all parties, and has requested that Alameda withdraw the motions,
6 without prejudice to their later re-filing. Alameda has agreed to withdraw the motions but has
7 asked that the Court enter an order confirming its intentions as to entry of judgment.

8 Accordingly,

9 IT IS HEREBY ORDERED that judgment in the Nuveen and Osher cases shall not be
10 entered until the claims of all parties have been adjudicated through trial or otherwise. In the event
11 judgment is entered prematurely, or before Alameda has had a reasonable opportunity to re-file its
12 motions under CCP §1038, the judgment shall not be effective and, upon application of Alameda,
13 will be vacated. Alameda shall be entitled to re-file its motions under CCP §1038 without
14 prejudice at the conclusion of the cases.

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16 **IT IS SO ORDERED.**

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18 Date: 6/20/11



19 Hon. Susan Illston,
20 United States District Judge
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